

CITY OF ALAMEDA
HISTORICAL ADVISORY BOARD
DRAFT RESOLUTION

A RESOLUTION OF THE HISTORICAL ADVISORY BOARD OF THE CITY OF ALAMEDA APPROVING CERTIFICATE OF APPROVAL, PLN11-0340 AT 1234 HAWTHORNE STREET.

WHEREAS, Patricia & Alexander Bernstein made an application on November 2, 2011 to remove a Coast Live Oak (*Quercus agrifolia*) located at 1234 Hawthorne Street; and

WHEREAS, application was complete on November 10, 2011; and

WHEREAS, Alameda Municipal Code Section 13-21.7, identifies Coastal Live Oaks as a protected tree and mandates that no protected tree shall be removed without approval of a certificate of approval; and

WHEREAS, the Applicant has submitted an arborist's report indicating the tree is unhealthy, has extensive decay, is a good candidate for removal and removal of said tree will benefit the remaining dominant oak tree; and

WHEREAS, the Board finds that the proposed project is a Categorically Exempt project in accordance with the California Environmental Quality Act (CEQA); CEQA Guidelines Section 15304, Class 4 Exemption for minor alterations to land that involve the removal of a tree for forestry purposes; and

WHEREAS, the Board made the following finding with respect to the proposed tree removal:

- (1) The subject tree is in declining health, encountering decay, that present a potential for failure, which could result in injury to persons and damage to property. These cannot be controlled or remedied through reasonable preservation practices or procedures.
- (2) The health of the subject tree will continue to decline resulting in decay and other structural defects that increases the potential for the tree to fall, which could result in injury to persons and damage to property. These cannot be controlled or remedied through reasonable preservation practices or procedures.

NOW, THEREFORE, BE IT RESOLVED that the Historical Advisory Board hereby grants Certificate of Approval, PLN11-0340, for the removal of one Coast Live Oak tree located at 1234 Hawthorne Street, subject to the following conditions:

1. This Certificate of Approval shall expire three (3) years after the date of approval

or by December 1, 2014.

2. Within 10-days of this approval (December 13, 2011), the Applicant shall submit a \$250 in-lieu fee, equal to the cost of two fifteen gallon trees, to be collected for the purchase and planting of trees on City owned property.
3. The larger oak tree shall be retained on site. To ensure survival of the tree during the removal of the diseased smaller tree, care shall be taken to protect the root ball.

NOTICE. The decision of the Historical Advisory Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by Notice of Appeal stating the appellant claims that either the Board's decision is not supported by its findings or its findings are not supported by the evidence in the record.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code Section 66020 (d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The applicant is hereby further notified that the 90-day appeal period, in which the applicant may protest these fees and other exactions, pursuant to Government Code Section 66020 (a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of Section 66020, the applicant will be legally barred from later challenging such fees or exactions.

INDEMNIFICATION. The applicant, or its successors in interest, shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda and their respective agents, officers, and employees from any claim, action, or proceeding against the City of Alameda and their respective agents, officers or employees to attack, set aside, void or annul, any approval or related decision to this project. This indemnification shall include, but is not limited to, all damages, costs, expenses, attorney fees or expert witness fees arising out of or in connection with the project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

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